

NORTH HERTFORDSHIRE DISTRICT COUNCIL
Council Offices, Gernon Road, Letchworth Garden City,
Hertfordshire, SG6 3JF

Telephone: (01462) 474000
Text Phone: (01462) 474800



15 April 2016

Planning Consultation Team
Department for Communities and Local
Government Fry Building,
2 Marsham Street
LONDON
SW1P 4DF

Our Ref:
Your Ref:

Contact Officer: Nigel Smith
Direct Line: (01462) 474847
E-mail: nigel.smith@north-herts.gov.uk

Dear Sir / Madam,

North Hertfordshire District Council Response to Technical Consultation on Implementation of Planning Changes

Thank-you for the opportunity to comment on the above consultation. The consultation posed a significant number of questions. Rather than responding in depth to each, North Hertfordshire District Council has raised general issues against each topic.

Planning fees (questions 1.1 to 1.5)

The consultation identifies a range of possible options relating to planning fees and performance. The District Council has a number of concerns.

Firstly, it is considered that the concept of “performing well” is not sufficiently defined. The proposed measures will potentially result in the imposition of arbitrary penalties. Authorities could, for example, find themselves outside the top 75% in terms of performance yet have achieved the Government’s performance targets.

Over time, the proposed measures would result in a confusing array of national fees within geographic areas.

The proposals for a fast track approach give rise to concerns about the resultant quality of decision-making and may also lead to a two-tier system to the benefit of those who can afford to pay.

The significant majority of applications are currently subject to statutory determination periods of either eight or 13 weeks. The proposals in this consultation could lead to the imposition of (variously) statutory two-week, five-week, eight-week, 10-week and 13-week determination periods as well as any additional time periods which might be introduced by local discretion.

Permissions in principle (questions 2.1 to 2.10)

North Hertfordshire does not object, in principle, to the various avenues by which permission in principle might be achieved. However, any system needs to ensure that the necessary information is made available to allow appropriate decisions to be made. Matters currently identified as 'technical details' can often go to the heart of whether a development is acceptable in principle.

It further needs to be ensured that the Permission in Principle process does not result in the burden of demonstrating acceptability effectively being transferred from applicants and landowners to the local planning authority.

Any fee regime should ensure that Councils are financially no worse off than under current regimes and should cover the reasonable costs of dealing with such applications.

The Council is concerned about the proposal for maximum determination periods (5 weeks or 10 weeks) for determining applications for permission in principle and approval of technical details. Whilst accepted timescales are necessary to ensure an efficient system, unless there is ability for an applicant and an LPA to agree extensions to such periods the maximum periods will inevitably result in unnecessary refusals on the basis of insufficient information / lack of response from important consultees. There needs to be ability for applicants and LPAs to agree any necessary formal extensions to determination periods in order to maintain a pro-active dialogue to seek to overcome technical matters.

Brownfield registers (questions 3.1 to 3.8)

Further consideration is required as to the relationship between the proposed brownfield registers, the avenues for the identification of sites and the ways in which such sites are currently brought to fruition.

Many previously developed sites often bypass the local plan process as, in broad terms, they often accord with the basic principles of the plan and / or the NPPF, or are subject to regimes which 'bypass' the need for a full planning application to be submitted. In many cases, there is limited incentive for site owners to engage with the local planning authority prior to submission of an application.

This could make identification of sites for a register unduly onerous for limited additional benefit to either the site owner or the local planning authority.

Small sites registers (questions 4.1 to 4.4)

It is considered that a requirement for a register of potential development plots of between one and four units in size would be an excessively onerous requirement upon (geographically) large authorities.

Furthermore, proposals to remove any requirement for an assessment of suitability for sites on this register calls into question its value and purpose other than as a list of land.

Neighbourhood planning (questions 5.1 to 5.10)

We do not support the proposal that a local planning authority should designate the whole of a parish area and the removal of the ability of the local planning authority to amend the boundary.

There may be circumstances, for example where a local plan designates a cross parish strategic development site, where it may be beneficial to exclude that part of the strategic development site from the provisions of one or more neighbourhood plan(s). The proposed approach could lead to unrealistic expectations of what a neighbourhood plan

could influence and resultant disappointment when it is discovered that other planning mechanisms would take precedence for a strategic development site (i.e. the need for any neighbourhood plan to conform with the strategic policies of the local plan).

Similarly, we do not support the time limit of 13 weeks to designate a neighbourhood forum. This should be extended to 26 weeks. The make up of a neighbourhood forum is vital to the success of the neighbourhood planning process and if this is wrong in the initial application, this may not be easy to solve in the proposed 13 week period. It would be better to have a more flexible time period and allow the local planning authority and the neighbourhood forum to reach a good decision rather than one which simply fits a time frame.

Local plan intervention (questions 6.1 to 6.6)

It is accepted that quantitative measures, such as those proposed, have a valuable role in identifying candidates for prospective intervention. However, any process needs to ensure sufficient regard to the qualitative factors which have influenced the plan-making situation, including those which might be outside of the local planning authority's control.

The idea of 'exceptional circumstances' is therefore supported. It is considered that the Secretary of State may wish to have regard to:

- progress under the Duty to Co-operate and / or the status of surrounding plans;
- the geography of housing and / or functional economic areas within which authorities have to co-operate under the requirements of the NPPF (and the 'ripple effect' of such relationships where authorities are partially within multiple market areas); and / or
- external influences such as the release of national statistics – which form the 'starting point' for the assessment of needs – resulting in material changes which need to be reflected in evidence and plans.

Planning performance (questions 7.1 to 7.4)

The Council does not agree that there should be any designation or de-designation criteria.

Competition in planning applications (questions 8.1 to 8.5)

Any scheme to introduce competition into the processing of planning applications will need to be mindful of a number of issues including, but not necessarily limited to:

- Ensuring impartiality and / or no conflict of interest. Many bodies which might consider participating may already have a relationship with the local planning authority, either from acting on behalf of previous applicants or for acting on behalf of an authority e.g. in preparing certain evidence;
- Case histories can often be complex and long-running. Requiring the LPA to provide these may result in a costly administrative burden which might not be properly reflected in the share of the fee that might be received;
- Local planning authorities accrue a wide range of local knowledge which is vested within, and shared between, individuals and departments. This local knowledge can be critical in determining the appropriate response to an application and it needs to be ensured this is captured (and compensated for) in any competitive system.
- The Local Planning Authority operates as an holistic legal entity and performs many functions other than determining / processing planning applications. If you starve an LPA of fee income it will be unable to perform the other non-fee earning function, such as plan making, protecting heritage assets, trees, etc.

Information about financial benefits (questions 9.1 to 9.2)

This is a statutory requirement under Section 70(2) of the Town and Country Planning Act 1990 (as amended). Financial benefits are already referenced in Committee reports to

inform Members of the factors that may weigh in favour of granting planning permission. The Council is not opposed to increasing the amount of information that is needed in relation to this provided safeguards are put in place to ensure that proper land use considerations take precedence. The Council is concerned that placing too much emphasis on the financial benefits of development may undermine public confidence in the planning system whereby local residents may raise legitimate land use planning concerns which are overridden by financial considerations.

Yours sincerely

A handwritten signature in black ink, appearing to read "Ian Fullstone".

Ian Fullstone
Head of Development & Building Control